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10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

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13 LORENZO TUCKER, III, )  
14 Plaintiff, ) Case No. 2:18-cv-00962-JCM-CWH  
15 v. ) ) **MOTION FOR EXTENSION OF TIME**  
16 JODONA L. BROWN, *et al.*, ) **TO RESPOND**  
17 Defendants. ) ) **(First Request)**  
18

19 Pursuant to Fed. R. Civ. P. 6(b)(1)(A) and Local Rule IA 6-1(a), the United States of  
20 America (“United States”), on behalf of Federal Defendant Jodona L. Brown (“Federal  
21 Defendant”), hereby moves for a 60-day extension of time, as measured from the date of  
22 removal, May 25, 2018, to file its answer or other response. The new deadline would be  
23 **Tuesday, July 24, 2018.** This is the United States’ first request for extension and, as set forth  
24 herein, there is good cause for the request.

25 As near as the United States can tell, plaintiff is seeking to assert, either or both, a  
26 *Bivens* claim or tort claim under the Federal Tort Claims Act against the Federal Defendant.  
27 Normally, when asserting claims against a United States officer or employee, such as the  
28 Federal Defendant in this matter, the time period for response is 60 days after service on the

1 United States Attorney.<sup>1</sup> However, because this action was removed from state court after  
2 receipt of the initial pleading by the Federal Defendant, the period for filing an answer or other  
3 response is 7 days after the removal was filed. *See Fed. R. Civ. P. 81(c)(2)*. At least one court  
4 has acknowledged the apparent conflict between Rule 12(a) and Rule 81(c) and held that, “in  
5 the interests of justice and the policies undergirding the Federal Rules of Civil Procedure”, the  
6 Government should be given at least that amount of time to file an answer or other responsive  
7 motion that it would have had if the case were originally filed in federal court. *See B & C*  
8 *Enterprises, LLC v. FEMA*, 2006 WL 305326 (S.D. W. Va. Feb. 2, 2006).

9 Moreover, the filing that plaintiff has characterized as a complaint is largely  
10 unintelligible and will take additional time and resources to review. The scattered, factually  
11 unsupported allegations range from a claim of collusion with the sentencing judge and  
12 prosecuting attorney during a probation revocation proceeding (*see United States v. Tucker*,  
13 2:08-cr-00025-KJD-CWH, ECF Nos. 228, 229) to vague assertions of fraud, and violations of  
14 constitutional rights under “color of law.” The United States needs additional time to review  
15 plaintiff’s pleading, the incomplete documents attached thereto, and the record of the  
16 proceeding/s from which the complaint appears to stem in order to file its response.

17 This extension is not sought for delay or any other improper purpose, but to allow the  
18 United States to fully evaluate the claims asserted by plaintiff and the defenses thereto.

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26 <sup>1</sup> A *Bivens* claim is asserted against United States officers or employees in their individual  
27 capacity and responsive pleading is normally due within the later of 60 days after service on the  
28 employee or the United States Attorney. *See Fed. R. Civ. P. 12(a)(3)*. A responsive pleading in  
cases involving claims against United States officers or employees in their official capacity is  
due within 60 days after service on the United States Attorney. *See Fed. R. Civ. P. 12(a)(2)*.

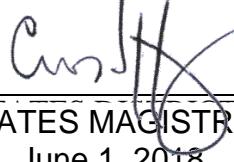
1 WHEREFORE, for the above reasons, the United States respectfully requests the instant  
2 motion extending time for the United States to file a response until July 24, 2018, be granted.

3 Respectfully submitted this 30th day of May 2018.

4 DAYLE ELIESON  
5 United States Attorney

6 /s/ Mark E. Woolf  
7 MARK E. WOOLF  
8 Assistant United States Attorney

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10 IT IS SO ORDERED:

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13 UNITED STATES MAGISTRATE JUDGE  
14 DATED: June 1, 2018

## **PROOF OF SERVICE**

I, Mark E. Woolf, hereby certify that the **MOTION FOR EXTENSION OF TIME TO RESPOND** was served this date on all parties via the Court's Electronic Case Filing system, and as indicated below:

**U.S. Mail:**

Lorenzo Tucker, III  
617 W. Colton Avenue  
North Las Vegas, Nevada 89032

Dated this 30th day of May 2018.

/s/ Mark E. Woolf  
MARK E. WOOLF  
Assistant United States Attorney